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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,616	07/30/2003	Ikumi Ohta	P24010	6104

7055 7590 09/21/2004

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EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,616

Applicant(s)

OHTA ET AL.

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/30/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/30/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/30/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The abstract of the disclosure is objected to because the length of the abstract should be limited to 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "plug lid" in line 3. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 2 recites the limitations "the drain port" in line 2, "the circumferential edge of the plug lid" in line 3, "the packing" in line 6. There is insufficient antecedent basis for this limitation in the claim.
6. Claims 5 and 6 recite the limitation "the main body" in line 2. There is insufficient antecedent basis for this limitation in the claims.
7. Claims 8 and 9 recite the limitation "the supporting shaft" in line 2. There is insufficient antecedent basis for this limitation in the claims.
8. Claims 10 and 11 recite the limitations "the supporting shaft of said drain plug lid" in line 3 and "the resilient pieces" in line 5. There is insufficient antecedent basis for this limitation in the claims.

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9. Claims 12 and 13 recite the limitation "the anti-vibrating member" in 2. There is insufficient antecedent basis for this limitation in the claims.

10. Claims 14 and 15 recite the limitation "the supporting shaft" in line 3. There is insufficient antecedent basis for this limitation in the claims.

Drawings

11. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, several of "fitting grooves" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

12. Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohta (4,860,390).

The Ohta reference shows a drain plug structure for a bath tub comprising a plug lid 4 including a circumferential edge set to be lower than the bottom surface B of the bath tub under a drain port closed state.

Regarding claim 8, the plug lid 4 is removably fitted to a supporting shaft 5.

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15. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Husting (5,363,519).

The Husting reference shows a drain plug structure 7 for a bath tub comprising a plug lid 5 including a circumferential edge set to be lower than the bottom surface B of the bath tub under a drain port closed state.

Regarding claim 8, the plug lid 4 is removably fitted to a supporting shaft 8.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta (4,860,390) in view of Niemann (4,160,293).

The Ohta reference discloses a plug lid 4 removably fitted to the supporting shaft 5 by a structure 18 including threading means 16.

Although the Ohta reference does not show that the plug lid 4 is fitted to the shaft 5 by resilient pieces with protrusions on a fitting cylinder of the plug lid, attention is directed to the Niemann reference which shows plug lid 30 comprising resilient pieces having protrusion 54 and fitting groove 26 on the supporting shaft 20 for removably mounting the plug lid 30 to the supporting shaft 20.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the threading means 16 of the Ohta drain

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plug device for the resilient pieces with protrusions and fitting grooves, as for example, taught by the Neimann reference, wherein so doing would amount to mere substitution of one functional equivalent connecting means for another within the same art that would work equally well on the Ohta drain plug.

18. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Husting (5,363,519) in view of Niemann (4,160,293).

Regarding claim 10, the Husting reference discloses a plug lid 5 removably fitted to the supporting shaft 8 by a structure 7 including threading means 9.

Although the Husting reference does not show that the plug lid 5 is fitted to the shaft 8 by resilient pieces with protrusions on a fitting cylinder of the plug lid, attention is directed to the Niemann reference which shows plug lid 30 comprising resilient pieces having protrusion 54 and fitting groove 26 on the supporting shaft 20 for removably mounting the plug lid 30 to the supporting shaft 20.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the threading means 9 of the Husting drain plug device for the resilient pieces with protrusions and fitting grooves, as for example, taught by the Neimann reference, wherein so doing would amount to mere substitution of one functional equivalent connecting means for another within the same art that would work equally well on the Husting drain plug.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The McMullen and Hogner references show drain plugs having

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circumferential edges set to be lower than the bottom surfaces of the tubs in a closed state.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504.

The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le
Examiner
Art Unit 3751

HL
September 17, 2004